



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, California 94105-3901

April 29, 2005

Certified Mail No. 70000520002537124394
Return Receipt Requested

John N. Beidler
Johnson & Johnson
One Johnson & Johnson Plaza
New Brunswick, NJ 08540

Re: **URGENT LEGAL MATTER—RESPONSE REQUIRED BY June 20, 2005**
DE MINIMIS SETTLEMENT OFFER
Casmalia Disposal Site, Santa Barbara County, California

Dear Sir/Madam:

In 2003, the United States Environmental Protection Agency ("U.S. EPA") sent a _____ certified letter notifying Johnson & Johnson Biotechnology (hereinafter referred to as "your company or organization") of its potential liability for waste material it disposed of at the Casmalia Disposal Site ("Site"). This letter is intended to offer your company or organization the opportunity to resolve its liability for waste material disposed of at the Site from the facility(ies) specified in the enclosed settlement offer. The enclosed package of documents also contains an offer from several agencies of the State of California ("State Regulatory Entities") offering to settle their potential claims with your company or organization. The State Regulatory Entities' letter explaining their settlement offer follows immediately after this letter. For your convenience, an index to all the documents in this package follows the State Regulatory Entities' letter.

The U.S. EPA and the State are seeking your company or organization's participation in reducing the threat to human health and the environment posed by the Site. By joining the settlement, your company or organization can play an important role in the cleanup of the Site. We are asking each party responsible for arranging for the disposal of waste material at the Site to pay its fair share of the site cleanup cost. Federal, state and local governmental agencies along with the numerous private entities that used the Site for waste disposal will be expected to pay their share as part of this settlement. The U.S. EPA has already settled with the owner(s)/operator(s) of the Site and most of the parties that sent the largest quantities of waste to the Site.

The federal government also entered into a settlement with 52 major waste generators, collectively known as the Casmalia Steering Committee ("CSC"), who will finance and perform key portions of the response actions at the Site. The CSC has been performing work at the Site

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since September 1996. Still, other critical site response actions remain to be funded. This work includes capping multiple landfills, and establishing and operating several systems to collect, treat and dispose of contaminated subsurface and surface liquids. The monies obtained from settlements with parties such as your company or organization will be used to pay for this work.

In addition to addressing the need for financing site work, the enclosed settlement offer affords your company or organization the opportunity to resolve its liability under these federal environmental laws:

- **Comprehensive Environmental Response, Compensation, and Liability Act (“CERCLA”)**—CERCLA is the federal law that authorizes the Superfund program to clean up hazardous substances that may pose a threat to human health or the environment; and
- **Resource Conservation and Recovery Act (“RCRA”)**—RCRA is the federal law that provides for the management of solid and hazardous wastes.

If your company or organization wishes to join this settlement, the deadline for accepting the offer is June 20, 2005, at 5:00 p.m. Pacific Time. To enable the U.S. EPA to offer the most favorable settlement terms to a large number of parties, the terms of settlement are not negotiable. The settlement may be found in the enclosed document entitled “Administrative Order on Consent [Proposed]” (“AOC”). Please carefully review the terms of the AOC; the terms of the AOC will supersede any information in other documents.

Although the U.S. EPA may issue orders or bring lawsuits to require potentially responsible parties to perform or pay for site work, the government generally prefers to settle its claims without resorting to expensive legal action. **However, if your company or organization does not accept this offer by the above deadline, the offer will expire.**

The government may take enforcement actions against non-settling parties to ensure that recalcitrant parties do not gain an unfair advantage over parties that participate in the cost of cleanup at the Site. These actions may include: 1) ordering non-settlors to perform work at the Site to protect human health and the environment; and 2) bringing suit against non-settlors in federal court under CERCLA and/or RCRA. In addition, the CSC and other private parties that have settled may sue non-settling parties for contribution. **Joining this settlement will ensure that your company or organization does not face government enforcement actions or get drawn into lengthy and expensive lawsuits brought by other private parties for contribution.**

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“DE MINIMIS” SETTLEMENTS

The particular type of settlement being offered is called a de minimis settlement. The U.S. EPA has discretion under the Superfund law (CERCLA) to designate certain parties as “de minimis” waste generators. A potentially responsible party may qualify for a de minimis settlement if the following conditions are satisfied:

- The amount of waste contributed is minimal in comparison to the other waste at a site;
- The toxic or other hazardous effects of the waste contributed are minimal in comparison to the other waste at a site; and
- The settlement is in the public interest, and involves only a minor portion of the response costs at a site.

The U.S. EPA has designated roughly the top 150 waste generators that contributed waste material to the Site as major parties, and the remainder of the waste generators as de minimis contributors. Based on available information, the U.S. EPA believes that your company or organization may qualify for a de minimis settlement.

BENEFITS OF “DE MINIMIS” SETTLEMENTS

We believe it is in your company or organization’s best interest to consider this settlement opportunity. Through a de minimis settlement, settling parties receive the following benefits:

- **“Covenant Not to Sue”**: This provision is a promise that the government agencies that are participating in this settlement will not bring any future legal actions against the settling parties regarding the Site for the specific matters resolved in the settlement; and
- **“Contribution Protection”**: This provision offers settling parties protection from being sued for contribution by other potentially responsible parties at the Site.

Contribution protection is an especially valuable benefit because frequently major waste generators that have spent money cleaning up a site will sue other waste contributors to recover their cleanup costs. A de minimis settlement provides protection from contribution suits that extends to all matters covered by the settlement.

Taken together, the covenant not to sue, contribution protection and other de minimis settlement terms provide settling parties with a high degree of certainty that their responsibility at a site is fulfilled, and that they are protected from government enforcement actions and private party contribution actions related to the matters addressed in the settlement. To date, over 14,000 individuals, small businesses and other entities have entered into de minimis settlements with the U.S. EPA to resolve their liability at hundreds of waste sites across the country.

DE MINIMIS SETTLEMENT OFFER

The U.S. EPA used a formula to calculate the payment amount that your company or organization must pay to participate in the de minimis settlement. This formula, which will be explained below, is being used to calculate each party's fair share of the total cost of response actions at the Site. The precise payment amount that the U.S. EPA has calculated for your company or organization may be found in either Appendix A (non-federal parties) or B (federal parties) to the AOC.

The payment amount for your company or organization is derived from the quantity of waste material that it sent to the Site. The U.S. EPA used records kept in the normal course of business by the owner(s)/operator(s) of the Site to determine your company or organization's waste quantity. These records include: 1) weigh tickets recorded by the owner(s)/operator(s); and 2) waste shipment manifests filled out by waste generators. Facility records show that your company or organization (or a predecessor in interest) generated waste material disposed of at the Site. A more detailed description of the records used to determine each settling party's waste quantity may be found in the enclosed Fact Sheet entitled "Waste Quantity Records."

Enclosed with this letter is a Waste Summary Report for your company or organization that specifies the following information for each waste material shipment: 1) waste shipment manifest number; 2) weigh ticket number; and 3) the relevant information from those records, including the date of disposal, the name and address of the facility which disposed of waste material and the weight (in pounds) of the waste shipment. The Waste Summary Report provides the total weight, in pounds, for all of the shipments from the facility(ies) attributable to your company or organization. This is the number that the U.S. EPA used to determine your company or organization's quantity of waste material and to calculate the payment amount.

Settlement Options

Your company or organization now has two settlement options to choose from. Both settlement options have the following features in common:

- Your company or organization will make a one-time up-front payment. This payment is comprised of the following components:
 1. A base payment
This portion of the payment is calculated by identifying the portion of the total Site waste your company or organization disposed of at Casmalia and multiplying that by the total estimated cost of cleanup actions at the Site.
 2. A premium, which increases the amount you pay for the future estimated cost

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portion of the cost estimate. This premium functions as a risk transfer mechanism in a manner similar to an insurance premium -- effectively, you are paying the U.S. and the State for the opportunity to settle early, before all costs are known, and they are taking on the risk that cleanup costs will be more than estimated.

The formula for calculating your company or organization's settlement payment under either settlement option is set forth in the enclosed AOC at paragraph 38.

- The U.S. EPA and the U.S. Department of Justice participate in both settlement options.
- The U.S. EPA has deleted the standard settlement provision from the Proposed Administrative Order on Consent that would have preserved the Agency's ability to recover costs for cleaning up any site that received, or receives in the future, waste from the Casmalia Disposal Site.
- Your company or organization may settle separately with the State (as described more fully in the State's letter, which follows this letter), regardless of which option you choose for settling with the U.S.

The two options differ from each other in the following ways:

Option A:

- The United States releases Option A settling parties from liability at the Site for the waste identified in the settlement.
- Two federal natural resource trustees will participate in Option A. These two agencies -- the U.S. Department of Interior on behalf of the U.S. Fish and Wildlife Service, and the U.S. Department of Commerce on behalf of the National Oceanic and Atmospheric Administration ("Federal Trustees") will release Option A Settling Parties from any potential claims for their costs associated with cleanup actions or natural resource damage assessment or restoration at the Site. Your Company or Organization will pay its share of the Federal Trustees' combined costs of \$193,417.
- The premium is 100% of the future cost portion of the cost estimate.

Option B:

- The U.S. reserves the right to seek additional contribution from Option B settling parties if, upon completing the design of the response actions, the U.S. EPA determines that the cost of implementing the response actions will exceed the current estimate and available funds will be insufficient to continue response actions.
- The Federal Natural Resource Trustees will not participate in the settlement with those parties that choose Option B. Your company or organization will not be released from any liability for the costs incurred by the Federal Natural Resource Trustees associated

- with response actions and potential natural resource damages at the Site.
- o The premium is 50% of the estimated future costs.

These options are described more fully in the enclosed Proposed Administrative Order on Consent. The amount of money your company or organization will need to pay to participate in this settlement under either Option A or Option B is set forth in appendices to the Proposed Administrative Order on Consent. See the enclosed Appendix A (for non-federal agencies) and Appendix B (for federal agencies).

The following factors were used in making the calculation for each party:

- The total quantity of waste material disposed of at the Site is 5.6 billion pounds (based on business records maintained by the owner(s)/operator(s) of the Site) and by the California Regional Water Quality Control Board;
- The premiums are consistent with the premium levels recommended in EPA's national policy ("Standardizing the De Minimis Premium," issued June 1995)
- The estimated total cleanup cost is \$271.9 million (based on both past and future response costs, including the U.S. EPA's past response costs).

For further information about the U.S. EPA's and Natural Resource Trustees' estimated site response cost, see the enclosed fact sheet entitled "Cashout Cost Estimate."

THE SETTLEMENT PROCESS

SETTLEMENT DEADLINE

The deadline for participating in the de minimis settlement is June 20, 2005. In order to participate in the settlement, you must ensure that the U.S. EPA receives your signed original Signature Page plus a copy of your Payment Invoice by 5:00 pm Pacific Time on June 20, 2005.

WASTE QUANTITY REVIEW

The waste records available to the U.S. EPA for the Site are among the most complete and reliable of those for any waste site in the country. The U.S. EPA has full confidence in the evidence that it has reviewed to determine your company or organization's waste quantity and to calculate the payment amount. We recognize, however, that there are limited circumstances in which a party may be entitled to request that the U.S. EPA review its waste quantity. For further information about applying for a waste quantity review, refer to the enclosed document entitled "Instructions for Applying for Waste Quantity Review." Please note that the U.S. EPA will not be reviewing any claims that waste sent to the Site contains only petroleum product and is therefore not a hazardous substance as part of this waste quantity review process. **The deadline**

to apply for a waste quantity review is June 20, 2005, at 5:00 p.m. Pacific Time.

FINANCIAL REVIEW

If your company or organization wishes to settle, but would face a financial hardship in remitting the full payment amount, you may request that the U.S. EPA review your company or organization's financial ability to pay. The enclosed document entitled "Instructions for Applying for Financial Review" contains a complete description of the U.S. EPA's financial review process. This process will require your company or organization to substantiate its claim of financial hardship, including the submission of extensive financial documentation. **The deadline to apply for a financial review is June 20, 2005, at 5:00 p.m. Pacific Time.**

CONCURRENT WASTE QUANTITY AND FINANCIAL REVIEWS

If your company or organization chooses to apply for both a waste quantity and a financial review, you must submit both applications simultaneously. **Please do not wait for the U.S. EPA to act on your company or organization's application for a waste quantity review before applying for a financial review or vice versa, or your company or organization will be disqualified from raising either issue.** The U.S. EPA will notify your company or organization of the results of both reviews simultaneously, and you will then have thirty (30) days to submit payment.

FIVE PERCENT (5%) DISCOUNT

As an incentive to promote settlement the U.S. EPA will grant a five percent (5%) discount in the settlement payment amount to parties that do not submit either an Application for Waste Quantity Review or an Application for Financial Review. In order to receive the 5% discount, U.S. EPA must receive your signed original Signature Page and a copy of your Payment Invoice, indicating that you made full (95%) payment, by 5:00 pm Pacific Time on June 20, 2005. The 95% settlement payment amount for each party can be found on the enclosed Appendix A (for non-federal agencies) or Appendix B (for federal agencies) of the Proposed Administrative Order on Consent.

Parties that do submit either an Application for Waste Quantity Review or an Application for Financial Review will be informed of their final settlement payment amount when the U.S. EPA issues its determination(s) on their Application(s).

FURTHER INFORMATION

The U.S. EPA encourages you to learn more about the Site and the de minimis settlement by reading the enclosed fact sheets entitled "Site Background," "Cashout Cost Estimate" and "Waste Quantity Records."

In addition, information about the Casmalia Disposal Site and this de minimis settlement is available on the internet. The U.S. EPA's web site includes site photographs, maps, documents and other pertinent information. The URL for the web site is:

<http://www.epa.gov/region09/waste/rcra/casmalia>

Documents are also available at the following U.S. EPA information repositories:

U.S. EPA Superfund Records Center 95 Hawthorne Street San Francisco, CA 94105 415-536-2000 (Documents related to the U.S. EPA's emergency actions, and other response actions to ensure proper Site closure and response actions, dating principally from 1992 to the present)	U.S. EPA RCRA Records Center Managed by Tetra Tech EMI, Inc. 75 Hawthorne Street San Francisco, CA 94105 415-947-4597 (Historic documents related to the U.S. EPA permitting and enforcement activities, dating from the early 1970s and 1980s)
Santa Maria Public Library 420 South Broadway Santa Maria, CA 93454 805-937-6483 (Limited document collection)	Robert E. Kennedy Library California Polytechnic State University San Luis Obispo, CA 93407 805-756-1364 (Gov't Docs & Maps) (Limited document collection)

If you have any questions about this de minimis settlement, please call the U.S. EPA's hotline for this Site:

(415) 369-0559 ext. 10

In addition, you can e-mail any inquiries about this Site to the U.S. EPA at the following address:

r9.casmalia@epa.gov

Due to the large number of parties receiving this offer, we may not be able to respond to your telephone or e-mail inquiries immediately, but we will make every effort to respond as quickly as possible.


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ACCEPTANCE OF THIS OFFER MUST BE RECEIVED BY JUNE 20, 2005

To accept this offer, the U.S. EPA must receive your company or organization's acceptance of the offer by June 20, 2005, at 5:00 p.m. Pacific Time. Instructions for joining the de minimis settlement are explained in the document entitled "Settlement Instructions." This document includes instructions for both expedited settlement to qualify for the 5% discount and non-expedited settlement for parties who wish to apply for a waste quantity review and/or a financial review.

We encourage you to consider this offer and to contact us if you have any questions. We look forward to your company or organization's participation in this de minimis settlement.

Very truly yours,

A handwritten signature in black ink, reading "Elizabeth J. Adams". The signature is fluid and cursive, with the first name "Elizabeth" and last name "Adams" clearly legible.

Elizabeth J. Adams
Chief, Site Cleanup Branch
Superfund Division

cc: Brad O'Brien, Esq., U.S. Department of Justice

Enclosures – see index

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